



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
WWW.USPTO.GOV

**MAILED** Paper No.

**MAY 17 2010**

**OFFICE OF PETITIONS**

David W. Highet, VP & Chief IP Counsel  
Becton, Dickinson and Company  
(Cooley Godward)  
1 Becton Drive, MC 110  
Franklin Lakes NJ 07417-1880

In re Application of	:	
Yao et al.	:	
Application No. 10/087,217	:	
Patent No.: 7,115,377	:	DECISION ON PETITION
Filed: March 4, 2002	:	PURSUANT TO
Issued: October 3, 2006	:	37 C.F.R. § 1.28(c)
Attorney Docket No.: P-6497	:	
Title: NOVEL CELL-BASED ASSAYS	:	
FOR G-PROTEIN-COUPLED RECEPTOR-	:	
MEDIATED ACTIVITIES	:	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on January 27, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

The deficiency payment will be deducted from Deposit Account number 02-1666 in due course.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.<sup>1</sup>

/Paul Shanoski/  
Paul Shanoski  
Senior Attorney  
Office of Petitions

---

<sup>1</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).